

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

INDUSTRIA DE ALIMENTOS ZENÚ S.A.S.

Plaintiff/Counter Defendant,

v.

LATINFOOD U.S. CORP. d/b/a ZENÚ
PRODUCTS CO. and WILSON ZULUAGA,

Defendants/Counter Claimants/
Third Party Plaintiffs,

v.

CORDIALSA USA, INC.

Third Party Defendant.

Civil Action No. 2:16-cv-06576-KM-MAH

**DECLARATION OF SAMUEL KADOSH IN SUPPORT OF INDUSTRIA DE
ALIMENTOS ZENÚ S.A.S. AND CORDIALSA USA, INC.'S
MOTION FOR SUMMARY JUDGMENT**

I, SAMUEL KADOSH, make this declaration pursuant to 28 U.S.C. § 1746. I hereby state as follows:

1. I am an attorney with the law firm of Reed Smith LLP, counsel to Plaintiff/Counter Defendant Industria de Alimentos Zenú S.A.S. (“Industria”) and Counter Defendant Cordialsa USA, Inc. (“Cordialsa”) in the above-captioned action.

2. I respectfully submit this declaration in support of Industria and Cordialsa’s motion for summary judgment. Except where otherwise stated, I make this declaration based on my personal knowledge and my review of the record in this case.

3. Exhibit 1 is a true and correct copy of Plaintiff’s Response to Defendants’ First Set of Interrogatories, dated August 9, 2017.

4. Exhibit 2 attached hereto is a true and correct copy of Defendant Latinfood's Responses to Plaintiff's First Set of Interrogatories Direct to Defendant Latinfood U.S. Corp. d/b/a Zenú Products Co., dated August 9, 2017.

5. Exhibit 3 attached hereto is a true and correct copy of undated, hand-written notes produced by the Defendants in this case.

6. Exhibit 4 attached hereto is a true and correct copy of HWZ Distributors, Inc.'s Trademark/Service Mark Application for "ZENÚ," dated January 25, 2013.

7. Exhibit 5 attached hereto is a true and correct copy of an email chain, last email dated June 30, 2015, between Wilson Zuluaga and Jack Briggs, with the subject line: "Specimen."

8. Exhibit 6 attached hereto is a true and correct copy of an email chain, last email dated May 24, 2013, between Wilson Zuluaga and Jack Briggs, with the subject line: "RE: Approval Notice: ZENÚ Trademark (Serial No. 85832944)."

9. Exhibit 7 attached hereto is a true and correct copy of a letter, dated February 14, 2018, from Mark Ingber to Sarah Levitan.

10. Exhibit 8 attached hereto is a true and correct copy of an email chain, last email dated January 24, 2013, between Wilson Zuluaga, J. Briggs and E. Melo, with the subject line: "Re: Fwd: Zenú."

11. Exhibit 9 attached hereto is a true and correct copy of the United States Patent and Trademark Office ("P.T.O.") certificate of trademark registration of "Zenú" to HWZ Distributors, Inc., dated September 17, 2013.

12. Exhibit 10 attached hereto is a true and correct copy of Exhibit 11 of Mr. Zuluaga's December 18, 2019 deposition featuring images of Latinfood's Zenú logo (on the left) and Industria's Zenú logo (on the right).

13. Exhibit 11 attached hereto is a true and correct copy of an email chain, last email dated October 8, 2013, between Jaline Isidor and Wilson Zuluaga, with the subject line: "Zenú labels."

14. Exhibit 12 attached hereto is a true and correct copy of an email chain, last email dated October 18, 2013, between Jaline Isidor and Wilson Zuluaga, with the subject line: "Zenú Chorizo."

15. Exhibit 13 attached hereto is a true and correct copy of an email chain, last email dated October 24, 2013, between Wilson Zuluaga and Jaline Isidor, with the subject line: "RE: Zenú Approval."

16. Exhibit 14 attached hereto is a true and correct copy of an image of an Industria Ranchera-marked "Salchicha Premium" label.

17. Exhibit 15 attached hereto is a true and correct copy of an email chain, last email dated August 23, 2013, between Wilson Zuluaga and Julio Isidor, with the subject line: "FW: Saludos."

18. Exhibit 16 attached hereto is a true and correct copy of an image of a Latinfood Zenú-marked "Chorizo Colombiano" label.

19. Exhibit 17 attached hereto is a true and correct copy of an image of a Latinfood Zenú-brand "Frijoles Antioquenos" label.

20. Exhibit 18 attached hereto is a true and correct copy of a print out of a page from Latinfood's website, archived on September 26, 2022, depicting images of Latinfood Zenú and Ranchera products for sale and their current labeling and logo.

21. Exhibit 19 attached hereto is a true and correct copy of an email chain, last email dated June 13, 2017, between Cibao Meat Products and Elizabeth Sandner, with the subject line: "FW: nuevo logo."

22. Exhibit 20 attached hereto is a true and correct copy of an image of a Latinfood's Ranchera "Premium Sausage" label.

23. Exhibit 21 attached hereto is a true and correct copy of an image of an advertisement for Latinfood's Zenú products.

24. Exhibit 22 attached hereto is a true and correct copy of a print out of a page from Latinfood's website, archived on October 4, 2016.

25. Exhibit 23 attached hereto is a true and correct copy of an image of a photo depicting several Latinfood advertisements for Zenú products.

26. Exhibit 24 attached hereto is a true and correct copy of an image of a photo depicting several Latinfood advertisements for Zenú products.

27. Exhibit 25 [SBA Article] attached hereto is a true and correct copy of an article published by the U.S. Small Business Administration on September 26, 2014, entitled "Second Business Rises from Brothers' Bakery."

28. Exhibit 26 attached hereto is a true and correct copy of a message on LinkedIn, dated August 14, 2014, between Orlando Rios and Wilson Zuluaga.

29. Exhibit 27 attached hereto is a true and correct copy of Industria's Petition for Cancellation before the Trademark Trial and Appeal Board ("T.T.A.B.") filed on September 9, 2014 against Latinfood's trademark for Zenú (the "Cancellation Petition").

30. Exhibit 28 attached hereto is a true and correct copy of Industria's Trademark/Service Mark Application to register its Zenú mark submitted to the U.S. Patent and Trademark Office ("P.T.O.") on November 20, 2014 (the "IAZ Registration Application").

31. Exhibit 29 attached hereto is a true and correct copy of the Suspension Notice in connection with the IAZ Registration Application, issued by the P.T.O. on October 4, 2015.

32. Exhibit 30 attached hereto is a true and correct copy of the Notice of Suspension Pending Disposition of a Civil Action in connection with Industria's Cancellation Petition, issued by the T.T.A.B. on November 7, 2016.

33. Exhibit 31 attached hereto is a true and correct copy of invoices from Latinfood to Food Fair Supermarket in Paterson, N.J. ("Food Fair") from June 18, 2015 to July 30, 2015.

34. Exhibit 32 attached hereto is a true and correct copy of invoices from Latinfood to Food Fair from August 20, 2015 to September 17, 2015.

35. Exhibit 33 attached hereto is a true and correct copy of a document entitled "Latinfood US Corp., Sales by Rep Summary," dated June 26, 2017.

36. Exhibit 34 attached hereto is a true and correct copy of document entitled "Latinfood US Corp., Sales by Item Summary," dated June 31, 2019.

37. Exhibit 35 attached hereto is a true and correct copy of a document entitled "Latinfood US Corp., Sales by Customer Summary (Values in Home Currency)," dated April 6, 2019.

38. Exhibit 36 attached hereto is a true and correct copy of an email chain, last email dated August 28, 2014, between Gloria Moreno and Servicio al Cliente Negocio Carnico, with the subject line: “RE: Alejandra Meneses...queja de Productos Zenú en USA – Identificacion # 26-0890249.”

39. Exhibit 37 attached hereto is a true and correct copy of excerpts of the deposition of Jaline Isidor Horta, taken on March 7, 2019.

40. Exhibit 38 attached hereto is a true and correct copy of excerpts of the deposition of Elvis Rodriguez, taken on March 18, 2019.

41. Exhibit 39 attached hereto is a true and correct copy of excerpts of the deposition of Luis Salazar, taken on April 11, 2019.

42. Exhibit 40 attached hereto is a true and correct copy of excerpts of the deposition of Alejandro Yepes, taken on May 22, 2019.

43. Exhibit 41 attached hereto is a true and correct copy of excerpts of the deposition of Luis Arango, taken on July 11, 2019.

44. Exhibit 42 attached hereto is a true and correct copy of excerpts of the deposition of Gregorio Perez Rangel, taken on September 9, 2019.

45. Exhibit 43 attached hereto is a true and correct copy of excerpts of the deposition of Wilson Zuluaga, taken on December 18, 2019.

46. Exhibit 44 attached hereto is a true and correct copy of excerpts of the deposition of Santiago Jimenez, taken on January 14, 2020.

47. Exhibit 45 attached hereto is a true and correct copy of excerpts of the deposition of Hernando Ramos Moreno, taken on January 16, 2020.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: New York, NY
October 7, 2022

By: /s/ Samuel Kadosh
Samuel Kadosh